

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:09cr95**

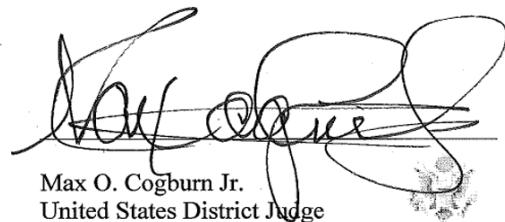
UNITED STATES OF AMERICA,)	
)	
)	
Vs.)	ORDER
)	<u>Simmons Dismissal</u>
PRINCETON BESS,)	
)	
Defendant.)	
)	

THIS MATTER is before the court on defendant's Motion to Dismiss with Prejudice with Government Consent. Defendant moves this court for an order dismissing with prejudice the charges filed against him in the Bill of Indictment in this case in light of *United States v. Simmons*, ___ F.3d ___, 2011 WL 3607266 (4th Cir. Aug. 17, 2011) (*en banc*). The government consents to the motion. Having considered defendant's motion and reviewed the pleadings in light of *Simmons*, and it appearing that jeopardy has already attached, the court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED that defendant's Motion to Dismiss (#36) is **GRANTED** and the Indictment in the above captioned case is **DISMISSED** with prejudice. Pursuant to 18 U.S.C. § 4282, the court directs the Bureau of Prisons or the United States Marshal for the District of South Carolina to furnish defendant with transportation to Charlotte, the location where he was arrested. The Clerk of Court is directed to send copies of this Order to Betsy Ervin and Beth Morgan at the U.S. Probation Office.

Signed: September 30, 2011



A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", is written over a horizontal line. To the right of the signature, there is a small, faint, illegible stamp or mark.

Max O. Cogburn Jr.
United States District Judge